

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,  
Plaintiffs,**

**v.**

**BRIAN KEMP, ET AL.,  
Defendants.**

**Civil Action No. 1:17-CV-2989-AT**

**STIPULATION OF DISMISSAL WITHOUT PREJUDICE**

Pursuant to this Court's Order dated May 25, 2018 (Dkt. No. 215) ("Order"), the Parties, by and through their respective counsel, hereby stipulate<sup>1</sup> as follows:

WHEREAS, Plaintiffs Donna Curling, Donna Price, and Jeffrey Schoenberg (the "Curling Plaintiffs") desire to proceed efficiently to secure a just, speedy, and inexpensive determination of this action that is in the best interests of Georgia voters and that is consistent with judicial economy;

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<sup>1</sup> All Parties consent to this Stipulation subject to the understanding that the Court intends to docket the proposed Third Amended Complaint (Dkt. No. 160-1) as the Coalition Plaintiffs' operative complaint, as the Court has indicated it is prepared to do. (Order, at 1.). Furthermore, State Defendants have consented to this Stipulation so as to streamline and simplify the issues but without prejudice to preserving their positions as set forth in Dkt. Nos. 166 and 191. Finally, the Coalition Plaintiffs have consented to this Stipulation without prejudice to reserving their position that *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1106 (11th Cir. 2004) applies and mandates a different procedure.

WHEREAS, the Curling Plaintiffs now desire to dismiss certain of their claims and certain of the Defendants in order to simplify the issues between the Parties, to reduce costs, and to help expedite these proceedings;

WHEREAS, the Court indicates in its Order that the “Curling Plaintiffs could achieve this by ... entering a stipulation with Defendants” (Order at 1);

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

1. Counts III, IV, V, VI, VII, VIII, X, and XI shall be dismissed as against all Defendants, without prejudice.
2. Counts I, II, and IX shall proceed against Defendants Brian P. Kemp; David J. Worley, Rebecca N. Sullivan, Ralph F. “Rusty” Simpson, and Seth Harp (“Members of the State Election Board”); and Mary Carole Cooney, Vernetta Nuriddin, David J. Burge, and Aaron Johnson (“Members of the Fulton County Board of Registration and Elections”), in their official capacities only.
3. All claims shall be dismissed as against Defendant State Election Board, without prejudice.
4. All claims shall be dismissed as against Defendant Richard Baron, Director of the Fulton County Board of Registration and Elections, without prejudice.

5. All claims shall be dismissed as against Defendant Fulton County Board of Registration and Elections, without prejudice.
6. All claims shall be dismissed as against Defendant Maxine Daniels, Director of the DeKalb County Board of Registrations and Elections, without prejudice.
7. All claims shall be dismissed as against Defendants Michael P. Coveny, Anthony Lewis, Leona Perry, Samuel E. Tillman, and Baoky N. Vu (“Members of the DeKalb County Board of Registrations and Elections”), without prejudice.
8. All claims shall be dismissed as against Defendant DeKalb County Board of Registrations and Elections, without prejudice.
9. All claims shall be dismissed as against Defendant Janine Eveler, Director of the Cobb County Board of Elections and Registration, without prejudice.
10. All claims shall be dismissed as against Defendants Phil Daniell, Fred Aiken, Joe Pettit, Jessica Brooks, and Darryl O. Wilson (“Members of the Cobb County Board of Elections and Registration”), without prejudice.

11. All claims shall be dismissed as against Defendant Cobb County Board of Elections and Registration, without prejudice.
12. All claims shall be dismissed as against Defendant Merle King, Executive Director of the Center for Election Systems at Kennesaw State University, without prejudice; Merle King, following his dismissal, will continue to preserve potentially relevant materials and information for this litigation and will cooperate with discovery.
13. All Parties have agreed to a schedule for the exchange of information to facilitate the preservation of certain relevant materials and information (together, the “Preservation Agreement”). This Stipulation does not affect or alter the Parties’ (including those Defendants dismissed as part of this Stipulation) rights or obligations to preserve evidence pursuant to the Preservation Agreement or otherwise but rather maintains the status quo in relation thereto.<sup>2</sup>

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<sup>2</sup> By signing this Stipulation, the Coalition Plaintiffs do not withdraw their standing objection to the Preservation Agreement noted in Robert McGuire’s email to counsel for all parties sent on May 17, 2018, at 10:47 p.m. Eastern time, namely: “To be clear, our information requirements (which we have repeatedly communicated to everybody) have not changed just because certain items we have asked for aren’t included in Paragraph 2 of this proposed schedule. We will release the number of machines that we can release based on the information we end up being provided. If that information is less than what we need, then we will of course just have to release fewer machines than we could have done.”

14. The Curling Plaintiffs have no claims against any Fulton County Defendant based on the factual predicates included in the Complaint that do not involve a Fulton County Defendant. Further, no factual allegations involving the dismissed Defendants will be imputed to the Fulton County Defendants.

Dated: June 1, 2018

Respectfully submitted,

/s/ Adam M. Sparks  
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**CERTIFICATE OF COMPLIANCE**

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Adam M. Sparks  
Adam M. Sparks

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 2018, a copy of the foregoing  
STIPULATION OF DISMISSAL WITHOUT PREJUDICE was electronically  
filed with the Clerk of Court using the CM/ECF system, which will automatically  
send notification of such filing to all attorneys of record.

/s/ Adam M. Sparks  
Adam M. Sparks